

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

PENNY HUYCK,

6:10-cv-6125-TC

Plaintiff,

v.

ORDER

KATHLEEN SEBELIUS, Secretary,
Department of Health and Human Services,

Defendant.

COFFIN, Magistrate Judge:

Plaintiff's first amended complaint alleges Title VII and Family Medical Leave Act (FMLA) violations against the Department of Health and Human Services. The parties have consented to magistrate judge jurisdiction in this case. Before me is defendant's motion to dismiss plaintiff's FMLA claim on the grounds that: (1) plaintiff's complaint fails to identify a waiver of sovereign immunity and (2) plaintiff's FMLA claim fails for lack of jurisdiction. (#39). Plaintiff responded to defendant's motion by agreeing to dismiss her FMLA claim. (#41).

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I grant defendant's motion to dismiss (#39). Plaintiff's second claim for relief in her amended complaint for a violation of FMLA is dismissed with prejudice. This matter shall proceed on the remaining claim. The Clerk of the Court shall enter judgment in accordance with this order.

IT IS SO ORDERED

DATED this 10 day of December 2012.



THOMAS M. COFFIN
United States Magistrate Judge